

# JUSTICE FOR ALL

/Abbie Darst, Program Coordinator

**F**ollowing a lifelong dream and the footsteps of generations before him, Charles Geveden has lived the life of public service he always sought. Geveden, named deputy secretary of the Justice and Public Safety Cabinet in December 2007, served 17 years in the General Assembly as a House District 1 representative, as well as practiced law for nearly 40 years and served as the commonwealth's attorney for the First Judicial District. Geveden holds a bachelor's degree from Vanderbilt University and a Juris Doctorate from the University of Louisville School of Law. He resides in Frankfort with his wife, Patricia.

How has your 17 years experience with the Kentucky General Assembly, combined with your years practicing law in Kentucky, prepared you for your position as deputy secretary for the Justice and Public Safety Cabinet?

I was a member of the General Assembly from December 1987 through the end of 2004, and I represented the first legislative district, which is in far western Kentucky and includes Ballard, Carlisle, Hickman and Fulton counties, and the western part of McCracken County. If you go back even a little further than that, I spent nine years as a commonwealth's attorney prosecuting in the first judicial circuit from 1972 through 1981.

Then, of course, all that time until I came to work in Frankfort in 2005, I was a practicing attorney. From January 2005 to January 2008, I was executive director of the Office of Criminal Appeals at the Attorney General's Office. So, having been a prosecutor, a member of the General Assembly and knowing the legislative process, having been involved in criminal prosecutions at the appellate level at the Attorney General's Office, and my private law practice all fits exceptionally well into a position in the Justice and Public Safety Cabinet.

I served all 17 years in the General Assembly on the judiciary committee, so we received reports and dealt with legislation that affected the Justice and Public Safety Cabinet the entire time I was in office. So, I had a pretty good feel for what the cabinet did because all the legislation dealing with prisons came before us. As a matter of fact, in 1996, I was the sponsor of and worked for about two years on revising the juvenile code. The legislation that I sponsored and worked on for those years created the Department of Juvenile Justice. Before that, all those now served by juvenile justice, the >>

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>> young people who were confined, the status offenders and others were taken care of through the Cabinet for Health and Family Services. The research we did and the experts we talked to strongly suggested juvenile justice needed its own focus.

They said you really can't have reform of the juvenile justice system until you create a department that deals solely with juvenile justice. That was done in 1996, and, for the most part, it has worked very well. Early on after we implemented it, it was used as a national model and other states came to the facilities to see what Kentucky had done. They took some of the things we had done and passed them in their own states.

What do you see as the single most important issue facing the Justice and Public Safety Cabinet? The single most critical issue facing the cabinet, in my opinion, is we have to do something to reduce the number of people we have incarcerated. We certainly want to ensure public safety – we do not want to do anything to compromise public safety – but there are many people who are in prison now who could be released sooner, and there are lots of folks in prison who could avoid prison with substance abuse treatment.

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We feel if you stop some of the people on the front end from substance abuse then you could keep them out of prison.

What we hope to do with some of the legislation that was passed is to set up substance abuse treatment programs and use home incarceration to reduce the prison population. In 1972, I believe, the prison population was 3,000. As of January of this year, there were 22,000 people incarcerated in Kentucky. The Justice and Public Safety Cabinet is in a position where we do not really have control over the number of people imprisoned. If the court system sends them to be put in jail or prison, we have to take care of them – no question about that – until they are out.

However, there has been some prison reform in other states, such as Kansas and Texas, that have relied a great deal on substance abuse treatment prior to incarceration. They have used treatment options even

to the extent that if people complete their substance abuse treatment, their charges are either dismissed or delayed for awhile, pending good behavior, in what is called a pre-trial diversion.

Right now, it is a daunting task for the Justice and Public Safety Cabinet to deal with this because the cost of incarcerating prisoners in Kentucky is almost a half billion dollars. There was a movement back in the 1970s, 80s and early 90s to get tough on crime. So what we have done is increased and enhanced punishments, making it much easier for someone to be considered a persistent felony offender. This applies even on non-violent crimes such as check fraud. If an individual has two cold checks and two charges to which he or she is found guilty, that person can be considered a persistent felony offender.

We have people in prison for failure to pay child support. Prosecutors and judges give them multiple opportunities to pay, and prison is a last resort. But still, if the person is in prison, they cannot make any money and cannot earn wages to pay child support. Most likely, the children are going to end up being on some type of public support like welfare or Medicaid. So the state is paying twice. We are paying to house the father and also paying for the children's care. So there

you go, we lose both ways. If we can figure out a way, even if it is on home incarceration, to get these people jobs and paying child support, hopefully they will get insurance, the children will be cared for and not have to receive aid from the social system.

What are the biggest obstacles in your path to overcoming this problem?

The biggest obstacle, right now, would be the budget. That seems to be an obstacle everywhere. It takes money to implement these programs. There are going to be some savings, but that is a long way down the road. We are supposed to implement programs by using funds from home incarceration. But we are hamstrung because while we want to do them, we cannot begin to generate savings without the money upfront to start the programs.

So we have to put people on home incarceration

in order to generate and save a little money, then use that to implement substance abuse programs and keep people out of prison. It has been shown through drug courts that these programs can be successful.

Not everybody is going to go off of meth, Oxycontin or whatever else they are on, but drug courts have been successful. The public defender's office has implemented the social-worker program where they use a social worker, pre-trial, to divert an individual from prosecution and help them get treatment.

I do not remember the exact statistic, but these social workers – who are paid \$35,000 to \$40,000 each year – can institute a savings of three times their salary by keeping people out of prison. So, those are little things that we can do, but we really need some money to start these programs.

Is savings from home incarceration the only money you will have available for these programs, or is there any money in the upcoming budget to help with their implementation?

Well, we will have to find it some way. The budget says that home incarceration is supposed to be the vehicle. Specifically it says, 'If actions resulting from sub-section six,' which is home incarceration, 'achieve more savings than are contemplated in the appropriations in this act, funds may be expended by the Department of Corrections to increase funding for drug treatment programs in county jails and for a secured substance abuse recovery program.'

But we have to have more funds than is anticipated before we really start those programs. That is the difficulty we have. We are going to have some meetings, hopefully, with folks from the crime council and state governments who worked with Kansas and Texas, to get legislation in place and implement some reforms

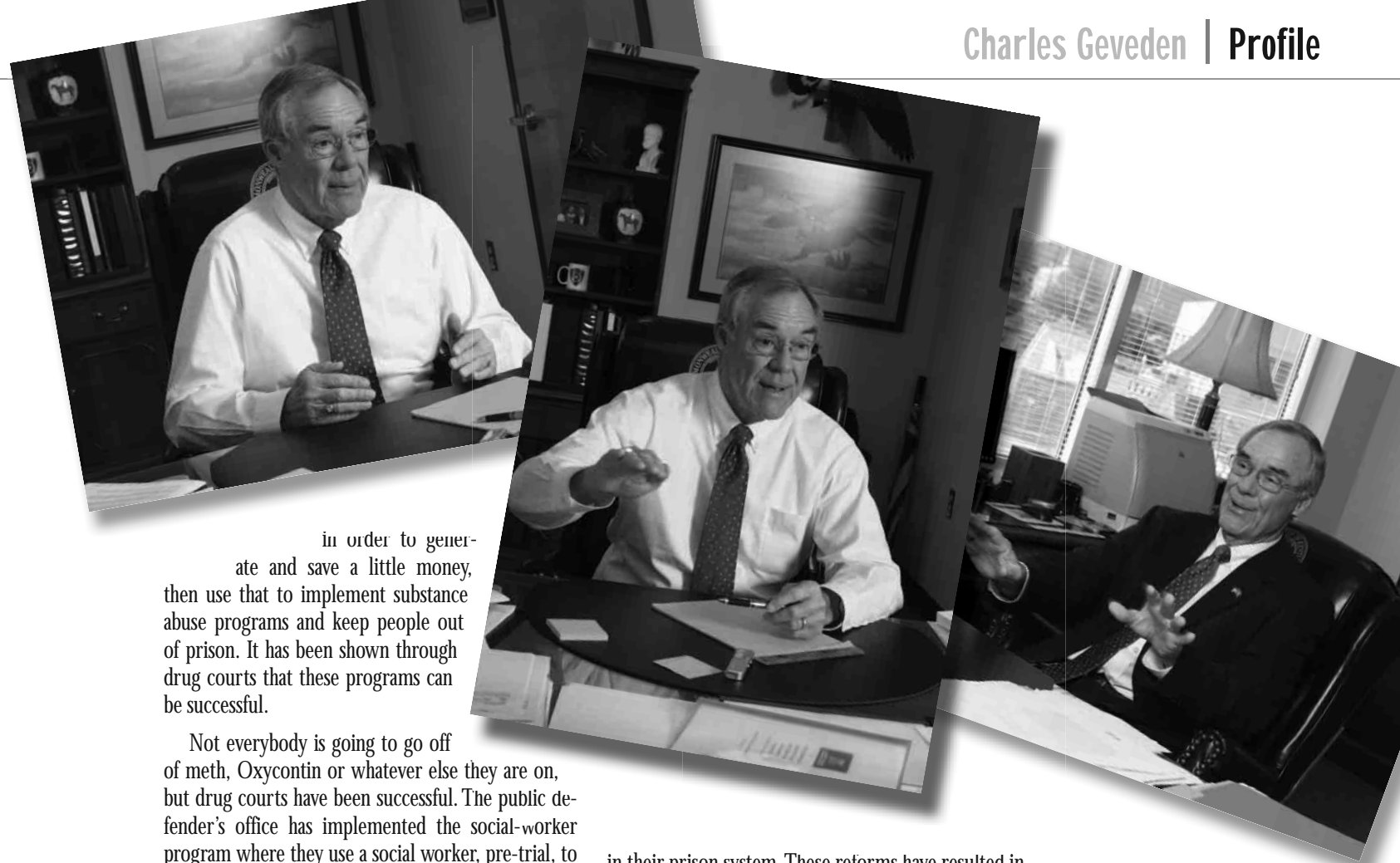
in their prison system. These reforms have resulted in reducing the prison population and obviously saving lots of money. Those are the things that we are looking for, while maintaining the safety and security of the people of Kentucky.

Like every cabinet, Justice faces some tight budgetary restraints. How do you think Kentucky law enforcement can best reconcile its lack of funding while maintaining services to the public and actively attracting new recruits?

That is a tough problem because I understand that the Kentucky State Police anticipated having a new cadet class and will probably not be able to do that because of the funding. There will be some retirements and, therefore, the state police may be somewhat undermanned – as they have been for awhile. The number of troopers with the state police has been about the same for a number of years.

I understand they are turning off their cars to save gas. When gasoline prices go up, that is an unbudgeted expense for governmental services, the state, schools – think of how much they have to pay for gasoline. They have to reduce other programs in order to compensate for that. We will have to do that too. One of the things being done statewide is limiting out-of-state travel.

I understand KSP Commissioner Rodney Brewer is trying to do some things to have some of the troop- >>





>> ers not be quite as active and on patrol at various times in order to save gasoline – that is a reality. Those are things that have to be done under these tight budgetary times.

It is going to be tough. Salaries are already low. With gas prices going up, the cost of food going up and the salaries staying the same, state employees really have less available money to spend from one year to the next.

The positive side is that state jobs are secure, they do provide health insurance for employees and some places do not. Health insurance is a big concern for people who want a job. So we do provide that and a stable retirement system. We still have people out there wanting state jobs, but, by the same token, with salaries staying almost flat, maybe we are not attracting the kind of people we would prefer.

Not to say that we do not have good state employees. I see it as a problem in the long run. We need to do something to ensure that we attract the best and brightest to state government. As long as salaries are low and compensation needs improvement, I think we will have trouble recruiting the best and the brightest.

For years, state government was thought to be the place for innovators. Not necessarily the federal government because it was so big and cumbersome, but state government was smaller and you could think and get things done a lot quicker in state government. I hope that does not

stop. I hope people who are bright, innovative and good thinkers will still want to come to state government, but you have to be able to pay them.

To improve effectiveness and the delivery of services, how do you perceive strategically changing the face of Kentucky law enforcement?

The Kentucky Law Enforcement Foundation Program Fund has been very good for law enforcement and its education. I used to be a city attorney for a couple of small towns and oftentimes, back in the 1970s, a policeman would resign and they would say, 'Well who can we get to be the policeman?' They would just hire somebody off the street with little, if any, training to be a police officer. Of course, that sometimes resulted in problems and complaints because the officer did not know how to handle things diplomatically. Sometimes they may have used some excessive force, which created lots of problems.

KLEFPF and the Peace Officers' Professional Standards Act have gone a long way toward helping the cities and counties have well-trained police officers, and I think that has been very good. People have to get their training before they can become involved in law enforcement – that has been a real positive for Kentucky.

Now, what we have to do is keep up with technology as it increases, which means there needs to be continued training for everybody. You also have to concentrate on Internet crimes. Obviously and unfortunately,

there appear to be a lot more sex offenders now than there were years ago. I think those are areas where the state is going to have to shore up its people and get them trained. Hopefully, through KLEFPF, we can do that, and I am sure there are other avenues of training in those areas too.

Do you envision a time when KLEFPF will eventually be equipped to allow for additional training that officers will need?

You would certainly hope so, but I know that the fund has remained level for the past few years and has not gone up as other things have increased. But again, you just have to wait and see what the market will bear.

I know there was an effort this time to include the Kentucky Department of Fish and Wildlife Resources and other state officers into KLEFPF, but that bill did not pass. So we will just have to see what happens. You would hope that those people could take advantage of and be involved in KLEFPF also, but we will have to see what the future holds. I would think at some point in the future we could get that done, but I would not want to predict when.

One of the top priorities you mentioned is prison overcrowding and the cost of incarceration to the state. We understand the Kentucky Law Enforcement Council is studying that issue. What policy changes do you think will be implemented quickly? The passage of House Bill 683 will have an impact on this issue. Before HB 683, there were seven members

In what ways or through what initiatives are you and Secretary J. Michael Brown actively implementing the cabinet's "Protecting you through public service ... making your future safer and healthier" mission?

Gov. Steve Beshear in his budget speech indicated the need for a study of the penal code to deal with prison overcrowding. Through the Kentucky Criminal Justice Council, we have begun to study the penal code, sentencing policy, probation and parole, Chapter 218A – which is the drug offenses chapter – and pretrial release.

The penal code was enacted in the early 1970s. It has been changed numerous times for various reasons with some of these so-called designer crimes – that is when an instance happens in a legislator's district and they say, 'well, we need the law changed to affect these certain types of situations.' The law contains these specific crimes, like desecration of a tombstone. A crime like that could always be put under criminal mischief.

Since it has been 30 years since the penal code was changed, we need to go through and modernize it and look at what affect the sentencing provisions of that penal code have on our prison population. We need to see what we can do to use probation and parole more – along with substance abuse treatment programs – to keep people on the street working and getting their treatment instead of being locked up in a county jail without treatment. We have started that process, and we are going to have a report ready this

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on the parole board. This bill added two members to the parole board for a total of nine members. The parole board has had seven members for years, even when the prison population was probably 10,000 or 12,000. Now the population is double that, but the parole board had not increased.

The parole board could not review the files or investigate that many cases. There are possibly many people currently in prison who could have been paroled years ago, but there was not enough manpower on the parole board to handle the case load. Hopefully, with those additional two members they can review more files.

fall and hope to have legislation ready for the 2009 short session.

With what is going on in the country and in Kentucky, these are certainly interesting and challenging times for the Justice and Public Safety Cabinet. Secretary Brown, myself and everybody else in the cabinet are working to solve the problems we have with prison overcrowding, modernization of the penal code and the juvenile justice programs already in place. So it is really challenging, but I think it can be very rewarding for us and very beneficial to the people of Kentucky. J